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TC 2615

Fax No. 703-872-9306

Phone No.

CC:

From: Connie del Castillo

Intellectual Property Paralegal

Telephone No. (408) 433-7191

Fax No. (408) 433-7460

REMARKS:

☐ Urgent☐ For your review☒ Reply ASAP☐ Please commentApplication Number: 09/539,686
Filing date: March 30, 2000
First named inventor: Daniel Watkins
Attorney docket number: 99-245

Transmitted herewith for filing via facsimile:

- Amendment in response to the Office Action dated February 20, 2004.

Pursuant to 37 C.F.R. 1.8, I hereby certify that this correspondence is being transmitted by facsimile to the U.S. Patent and Trademark Office on the date indicated below:

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Applicant: Daniel Watkins
Serial Number: 09/539,686
Filed: March 30, 2000
Title: Audio/Visual Device for Capturing, Searching and/or
Displaying Audio/Visual Material
Examiner: Huy Thanh Nguyen
Group Art Unit: 2615
Attorney Docket: 99-245

AMENDMENT A

Box Non-Fee-Amendment
Assistant Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

This amendment is filed in response to the Office Action dated February 20, 2004.

REMARKS

Claims 1-36 and 42-50 are in the case and subject to a restriction requirement. Applicants hereby elect with traverse to prosecute the claims of group I, including claims 1-36 and 42-50, drawn to an apparatus for selecting recording CC, audio and still picture portions from a received AV signal, classified in class 386, subclass 95. Thus, claims 37-41 are withdrawn from consideration. Reconsideration is requested.

However, restriction is not required by 35 U.S.C. § 121, as suggested in the office action. Congress wisely granted the *discretion* to restrict applications. According to 35 U.S.C. § 121 "... the Commissioner *may* require the application to be restricted...." (emphasis added). Likewise, MPEP § 803 lists two criteria that must be present for restriction to be proper:

1. The invention must be independent or distinct; and
2. There must be a serious burden on the examiner if restriction is not required.